

Present law authorizes, beginning July 1, 2005, and ending on Jan. 1, 2009, the issuance of motion picture investor tax credits against state income tax for state-certified infrastructure projects which meet the criteria provided for in present law and which are approved by the office of entertainment industry development in the Dept. of Economic Development (DED), the secretary of DED, and the division of administration. Further provides that the tax credit shall be equal to 40% of the base investment expended in this state on a state-certified infrastructure project in excess of \$300,000; however, the total tax credit allowed for any state-certified infrastructure project shall not exceed \$25 million.

Present law provides that the approvals and the requirements for state-certified infrastructure projects in present law shall be required for any state-certified infrastructure project which has not applied for initial certification or pre-certification prior to Aug. 1, 2007.

Present law provides that an application for an infrastructure project filed on or before Aug. 1, 2007, shall have 24 months from the date of approval of the rules or Jan. 1, 2008, whichever is earlier, to qualify for the 40% tax credits earned on expenditures. Tax credits on infrastructure projects shall be considered earned in the year in which expenditures are made, provided that a minimum of 20% or \$10 million of the total base investment provided for in the initial certification that is unique to film production infrastructure shall be expended before infrastructure tax credits can be earned on expenditures. The payment of tax credits may extend beyond or be made after the year expenditures are made.

Proposed law would have clarified present law by providing that an infrastructure project for which an application was filed on or before Aug. 1, 2007, that received an initial certification letter from the division, the DED, and the office, by Dec. 31, 2009, would have been entitled to receive credits equal to 40% of the base investment expended in the development of the state-certified infrastructure project until the project was completed, provided that a minimum of 20% or \$10 million of the total base investment established by the initial certification letter, whichever is less, was expended on infrastructure unique to La. film, video, television, and digital production and postproduction infrastructure no later than June 30, 2010.

Proposed law would have provided that if a project failed to obtain an initial certification letter or failed to expend the minimum of 20% or \$10 million of the total base investment established by the initial certification letter, whichever is less, by June 30, 2010, then no expenditures would be entitled to earn tax credits.

Proposed law would have provided that no tax credits shall be considered for final certification unless and until the minimum of 20% or \$10 million of the total base investment established by the initial certification letter, whichever is less, was expended.

Proposed law would have provided that a "state-certified infrastructure project" shall mean a film, video, television, and digital production and postproduction facility and movable and immovable property and equipment related thereto, or any other facility which supports and is a necessary component of a proposed state-certified infrastructure project, as approved by the office of entertainment industry development, DED, and the division of administration under such terms and conditions as are authorized by present law, excluding R.S. 47:6007 (C)(2), and in accordance with the immediate and long-term objectives of Act No. 456 of the 2007 R.S. Would have further provided that an "infrastructure project" shall not include movie theaters or other commercial exhibition facilities.

Proposed law would have prohibited no more than a total of \$25 million dollars in state-certified infrastructure project tax credits from being approved in any fiscal year; however, if less than \$25 million dollars of tax credits were certified in a fiscal year, the remaining amount of available tax credit certifications would have been added to the amount available for certification for the next fiscal year and carried forward for use in the next fiscal year. Would have further required tax credits for each fiscal year to be approved on a first come, first served basis.

Proposed law would have provided that in the case of tangible property in a certified production, "expended in the state" shall mean property acquired from a source within the state and in a certified infrastructure project shall mean property acquired pursuant to the

development of a state-certified infrastructure project and, in the case of services for either a state-certified production or a state-certified infrastructure project, shall mean services procured and performed in the state.

Proposed law would have required an infrastructure project to be approved within 45 days of submission if it is a film, video, television, or digital production or postproduction facility. Denials of applications would have been required to be in writing and would have constituted final agency action. Written reasons for the denial would have been required to be provided to the applicant within five days of a written request.

Proposed law would have provided that prior to any final certification of the state-certified production or infrastructure project, the applicant would have been required to submit a cost report of production or infrastructure project expenditures audited and certified by an independent certified public accountant as determined by rule. After review, the office and the secretary would have been required to issue either a final tax credit certification letter indicating the amount of tax credits certified for the state-certified production or state-certified infrastructure project, a written request for more information in order to complete an application, or written reasons for a denial of the certification within 30 days of the submission of a completed application for a state-certified production and within 45 days of submission of a completed application for a state-certified infrastructure project.

Proposed law would have provided relative to audit requirements that would have been required to be included in the rules and an appeal process for applications for initial certification or applications for final certification that are denied.

Proposed law would have required the office of entertainment industry development to provide written notice of all denials, the written reasons for a denial, and the status of any appeal to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.

Would have been effective upon signature of governor.

(Proposed to amend §3(C) of Act No. 456 of the 2007 R.S.; proposed to add §3(D), (E), (F), (G), (H), and (I) of Act No. 456 of the 2007 R.S.)

VETO MESSAGE: "House Bill No. 693 concerns motion picture infrastructure projects that received initial certification for tax credits prior to August 2, 2007. The primary purpose of the bill is the subject of a pending lawsuit filed by a project developer against the State over the meaning of the term "qualify" as used in Act 456 of the 2007 Regular Session. According to the Department of Economic Development, which administers this program, House Bill No. 693 would have a dramatically negative impact on the program and public fisc. I am also concerned about enacting legislation during a pending legal matter. Attached is a copy of a veto recommendation from the Department, more fully explaining concerns about House Bill No. 693.

For these reasons, I have vetoed House Bill No. 693 and hereby return it to the House of Representatives."